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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**STIPULATION TO DISALLOW
DUPLICATE CLAIMS FILED BY
WYNN A. AND LORRAINE J.
GUNDERSON AND CONTINUE
HEARING ON MOTION FOR
SUMMARY JUDGMENT RE
GUNDERSONS' REMAINING
CLAIM**

Date of Hearings: October 15, 2007
Time of Hearings: 9:30 a.m.

New Date of Hearings: November 16, 2007
Time of Hearings: 9:30 a.m.

USACM Liquidating Trust (the "USACM Trust"), by and through its counsel,
Lewis and Roca LLP, and Wynn A. and Lorraine J. Gunderson ("Gundersons") on their
own behalf, hereby stipulate:

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1 1. Wynn A. and Lorraine J. Gunderson filed proof of claim 10725-02321 on
2 January 19, 2007 in the amount of \$105,156.00.

3 2. Wynn Gunderson filed proof of claim 10725-02322 on January 19, 2007 in
4 the amount of \$105,156.00.

5 3. On March 20, 2007, the USACM Trust filed the Twelfth Omnibus Objection
6 to Claims Alleging Secured Status [DE 3155] which objected to the secured status of
7 claims No. 10725-02321 and 10725-02322.

8 4. Wynn and Lorraine Gunderson filed proof of claim No. 10725-02447-1 on
9 April 25, 2007, which was amended by proof of claim No. 10725-2447-2 filed in the
10 amount of \$176,135.00 also filed on April 25, 2007.

11 5. Wynn A. Gunderson filed proof of claim no. 10725-02448-1, on April 25,
12 2007, which was amended by proof of claim No. 10725-02448-2 filed in the amount of
13 \$176,135.00 also filed on April 25, 2007.

14 6. On April 19, 2007, Wynn A. and Lorraine Gunderson filed an Opposition
15 [DE 3154] to Objection to the USACM Liquidating Trust Twelfth Omnibus Objection to
16 Proofs of Claim Asserting Secured Status.

17 7. On July 30, 2007, the USACM Trust filed its Objection to Wynn and
18 Lorraine Gunderson Claims Asserting Secured Status (the "Objection") [DE 4262], which
19 objected to the secured status of Claim Nos. 10725-2447-1, 10725-2447-2, 10725-02448-1
20 and 10725-02448-2, arguing that the proofs of claim are not entitled to secured status and
21 requested that the claims be reclassified as general unsecured claims.

22 8. On July 30, 2007, the USACM Trust filed its Motion for Summary
23 Judgment Regarding (1) Responses to the USACM Trust's First Through Thirty-Third
24 Omnibus Objections to Claims Asserting a Secured Status' (2) Responses to USACM
25 Trust's First Though Third Omnibus Objection to Claims Asserting a Priority Status And
26 (3) Newly Alleged Secured and Priority Claims [DE 4291].

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1 9. The Objection and Motion for Summary Judgment are scheduled for hearing
2 on October 15, 2007, at 9:30 a.m.

3 10. The Gundersons contacted counsel for the USACM Trust. Upon being
4 provided additional information, the Gundersons agree that Claim Nos. 10725-02321,
5 10725-02322, 10725-02447-1, 10725-02448-1 and 10725-02448-2 are duplicate claims
6 and may be disallowed in their entirety on the ground that they have been amended by
7 Proof of Claim No. 10725-02447-2, which shall remain of record subject to further
8 objection by USACM.

9 11. The Gundersons have requested more time to respond to the Motion for
10 Summary Judgment and the USACM Trust is willing to accommodate this request.

11 12. Based upon the foregoing, the parties stipulate as follows:

- 12 • Claim Nos. 10725-02321, 10725-02322, 10725-02447-1, 10725-02448-1
13 and 10725-02448-2 be disallowed as duplicative of or amended by Proof
14 of Claim No. 10725-02447-2.
- 15 • The hearing on the Motion for Summary Judgment as it relates to Claim
16 No. 10725-02447-2 only and the Objection set for October 15, 2007, at
17 9:30 a.m. is VACATED and CONTINUED to November 16, 2007, at
18 9:30 a.m.;
- 19 • The Gundersons shall have until October 24, 2007, to file and serve a
20 response to the Motion for Summary Judgment and/or the Objection; and

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10-11-2007 04:33pm From-GUNDERSON PALMER

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- 1
- 2 • The USACM Trust shall have until November 2, 2007, to file and serve
- 3 its reply.

4 LEWIS AND ROCA LLP

5 By: /s/ RC (#6593)

6 Susan M. Freeman, AZ 4199 (*pro hac vice*)

7 Rob Charles, NV 6593

8 John Hinderaker, AZ 18024 (*pro hac vice*)

9 Counsel for USACM Liquidating Trust

10 -and-

11 By: 

12 Wynn A. Gunderson

13 By: 

14 Lorraine A. Gunderson